

By: Huffman  
(Riddle)

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of evidence of other similar offenses  
in the prosecution of certain sexual offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.37, Code of Criminal Procedure, is  
amended by amending Sections 1, 2, and 3 and adding Section 2-a to  
read as follows:

Sec. 1. (a) Subsection (b) [~~This article~~] applies to a  
proceeding in the prosecution of a defendant for an offense, or an  
attempt or conspiracy to commit an offense, under the following  
provisions of the Penal Code:

(1) if committed against a child under 17 years of age:

(A) Chapter 21 (Sexual Offenses);

(B) Chapter 22 (Assaultive Offenses); or

(C) Section 25.02 (Prohibited Sexual Conduct);

or

(2) if committed against a person younger than 18  
years of age:

(A) Section 43.25 (Sexual Performance by a  
Child);

(B) Section 20A.02(a)(7) or (8); or

(C) Section 43.05(a)(2) (Compelling  
Prostitution).

(b) [~~Sec. 2.~~] Notwithstanding Rules 404 and 405, Texas

Rules of Evidence, evidence of other crimes, wrongs, or acts committed by the defendant against the child who is the victim of the alleged offense shall be admitted for its bearing on relevant matters, including:

- (1) the state of mind of the defendant and the child; and
- (2) the previous and subsequent relationship between the defendant and the child.

Sec. 2. (a) Subsection (b) applies only to the trial of a defendant for:

(1) an offense under any of the following provisions of the Penal Code:

(A) Section 20A.02, if punishable as a felony of the first degree under Section 20A.02(b)(1) (Sex Trafficking of a Child);

(B) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(C) Section 21.11 (Indecency With a Child);

(D) Section 22.011(a)(2) (Sexual Assault of a Child);

(E) Sections 22.021(a)(1)(B) and (2) (Aggravated Sexual Assault of a Child);

(F) Section 33.021 (Online Solicitation of a Minor);

(G) Section 43.25 (Sexual Performance by a Child); or

(H) Section 43.26 (Possession or Promotion of

1 Child Pornography), Penal Code; or

2 (2) an attempt or conspiracy to commit an offense  
3 described by Subdivision (1).

4 (b) Notwithstanding Rules 404 and 405, Texas Rules of  
5 Evidence, and subject to Section 2-a, evidence that the defendant  
6 has committed a separate offense described by Subsection (a)(1) or  
7 (2) may be admitted in the trial of an alleged offense described by  
8 Subsection (a)(1) or (2) for any bearing the evidence has on  
9 relevant matters, including the character of the defendant and acts  
10 performed in conformity with the character of the defendant.

11 Sec. 2-a. Before evidence described by Section 2 may be  
12 introduced, the trial judge must:

13 (1) determine that the evidence likely to be admitted  
14 at trial will be adequate to support a finding by the jury that the  
15 defendant committed the separate offense beyond a reasonable doubt;  
16 and

17 (2) conduct a hearing out of the presence of the jury  
18 for that purpose.

19 Sec. 3. The [On timely request by the defendant, the] state  
20 shall give the defendant notice of the state's intent to introduce  
21 in the case in chief evidence described by Section 1 or 2 not later  
22 than the 30th day before the date of the defendant's trial [in the  
23 same manner as the state is required to give notice under Rule  
24 404(b), Texas Rules of Evidence].

25 SECTION 2. The change in law made by this Act applies to the  
26 admissibility of evidence in a criminal proceeding that commences  
27 on or after the effective date of this Act. The admissibility of

1 evidence in a criminal proceeding that commences before the  
2 effective date of this Act is covered by the law in effect when the  
3 proceeding commenced, and the former law is continued in effect for  
4 that purpose.

5 SECTION 3. This Act takes effect September 1, 2013.